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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 _____,) Case No. CV _____ RNB
12 Plaintiff(s),)
13 vs.) SCHEDULING AND CASE
14 _____,) MANAGEMENT ORDER
15 Defendant(s).) [See Exh. A for Pretrial and Trial dates]
16 _____)
17

18 The purpose of this Order is to enable the parties and their counsel to know well
19 in advance the schedule to which they will be expected to adhere, and the procedures
20 which they will be expected to follow. **Because this Order in some respects**
21 **modifies the applicable Local Rule of Court, counsel are advised to read it**
22 **carefully to avoid default on the obligations established herein.**
23

24 **I. Applicable Schedule**

25 This case shall be litigated according to the schedule in Exhibit A hereto. **To**
26 **the extent that the timing and dates set forth in Exhibit A differ from the timing**
27 **and dates set forth in Local Rule 16, the timing and dates set forth in Exhibit A**
28 **shall govern.** Ordinarily, those dates are determined after consultation with the

1 parties at the Rule 26(f) Scheduling Conference, and this Order is issued after that
2 Conference. Accordingly, the dates are firm and the Court is very unlikely to grant
3 continuances, even if stipulated by the parties, unless the parties establish good cause
4 through a strong, concrete showing.

5 6 **II. Cut-off Date for Joining Parties or Amending Pleadings**

7 The Court has established a cut-off date for adding parties or amending
8 pleadings. All motions to add other parties or amend the pleadings shall be noticed
9 for hearing on or before the cut-off date. All unserved parties will be dismissed at the
10 time of the Final Pretrial Conference pursuant to Local Rule 16-8.1.

11 12 **III. Discovery**

13 The Court has established a cut-off date for discovery, including expert
14 discovery if applicable.¹

15 All depositions shall be scheduled to commence at least one (1) week prior to
16 the discovery cut-off date, and shall be completed on or before the cut-off date. A
17 deposition which was commenced prior to the discovery cut-off date may continue
18 beyond the cut-off date, as necessary. Written discovery (e.g., interrogatories,
19 requests for admission, requests for production) shall be served at least forty-five (45)
20 days in advance of the discovery cut-off date; and counsel are advised that the Court

21
22 ¹ If expert witnesses are to be called at trial, the plaintiff (including any
23 counterclaimant, cross-claimant and third-party plaintiff) shall designate experts to be
24 called by plaintiff and provide the reports required by Fed. R. Civ. P. 26(a)(2)(B), not
25 later than eight (8) weeks prior to the discovery cut-off date. Defendant shall
26 designate experts to be called by defendant and provide the reports required by Fed.
27 R. Civ. P. 26(a)(2)(B), not later than five (5) weeks prior to the discovery cut-off date.
28 Failure to timely comply with this rule will likely result in the expert being excluded
at trial as a witness. Expert testimony intended solely for impeachment or rebuttal
shall be disclosed as required by Fed. R. Civ. P. 26(a)(2)(C).

1 will be disinclined to approve any stipulations between counsel which permit the
2 response to any written discovery to be served after the discovery cut-off date.

3 Any motion relating to discovery shall be filed not later than one (1) week after
4 the discovery cut-off date, and set for hearing not later than four (4) weeks after the
5 discovery cut-off date. **The Court expects strict compliance with Local Rule 37 in**
6 **the preparation and filing of discovery motions, including a good faith effort by**
7 **counsel to eliminate the necessity for hearing the motion or to eliminate as many**
8 **of the disputes as possible. Further, the Court expects counsel to comply with the**
9 **Central District's Civility and Professional Guidelines.**

10 For counsel's information, the Court hears law and motion matters on Tuesdays
11 at 9:30 a.m. Frequently, the Court decides discovery motions on the papers without
12 oral argument. If the motion is left on calendar, it is the general practice of the Court
13 to provide a written tentative ruling before the call of the calendar.

14 15 **IV. Motions**

16 **A. General Provisions**

17 All law and motion matters, except for discovery motions and in limine
18 motions, shall be noticed for hearing on or before the motion hearing cut-off date. In
19 limine motions dealing with evidentiary matters may be heard at the Final Pretrial
20 Conference or (at the Court's discretion) at the start of trial; however, the Court will
21 not hear or resolve any summary judgment motions disguised as motions in limine.

22 **The Court expects strict compliance with Local Rule 7 in the preparation**
23 **and filing of motions, including the pre-filing conference of counsel requirement**
24 **of Local Rule 7-3.**

25 If any party does not oppose a motion, that party shall submit a written
26 statement that it does not oppose the motion, in accordance with Local Rule 7-16.

27 Reply papers shall be limited to argument and/or authorities responsive to the
28 opposition papers. The Court will ignore any new matter that is improperly

1 introduced in a party's reply papers.

2
3 B. Summary Judgment Motions

4 Parties need not, and in many cases should not, wait until the motion hearing
5 cut-off date to bring motions for summary judgment or summary adjudication.
6 However, in virtually every case, the Court expects the moving party to provide more
7 than the minimum twenty-one (21) days of notice. Summary judgment motions are,
8 of course, very fact-dependent. All parties should prepare their papers in a fashion
9 that will assist the Court in absorbing the mass of facts (e.g., generous use of tabs,
10 tables of contents, headings, indices, etc.). **The Court expects strict compliance**
11 **with Local Rules 56-1 through 56-4.**

12 1. *Statement of Uncontroverted Facts and Conclusions of Law*

13 The uncontroverted facts shall be set forth in a two column format. The left
14 hand column shall set forth the allegedly undisputed fact. The right hand column shall
15 set forth the evidence that supports the factual statement. The fact statements shall be
16 set forth in sequentially numbered paragraphs. Each paragraph should contain a
17 narrowly focused statement of fact, and address a single subject in as concise a
18 manner as possible.

19 2. *Statement of Genuine Issues*

20 The first part of the opposing party's Statement of Genuine Issues shall track
21 the moving party's Statement of Uncontroverted Facts. It shall be set forth in a two
22 column format. The left hand column shall restate the allegedly undisputed fact, and
23 the right hand column shall state either that the fact is undisputed or disputed. The
24 opposing party may dispute all or only a portion of the allegedly undisputed fact, but
25 if disputing only a portion, the opposing party must specify clearly what portion is
26 being disputed. To demonstrate that a fact is disputed, the opposing party shall briefly
27 state why it disputes the moving party's allegedly undisputed fact, cite to the relevant
28 exhibit or other evidence controverting the allegedly undisputed fact, and describe

1 what it is in that exhibit or evidence that controverts the allegedly undisputed fact. No
2 legal argument shall be set forth in this document.

3 The opposing party may also specify additional material facts that bear on or
4 relate to the issues raised by the moving party, which shall follow the same two
5 column format described above for the moving party's Statement of Uncontroverted
6 Facts. These additional facts shall continue in sequentially numbered paragraphs (i.e.,
7 if the moving party's last allegedly undisputed fact was set forth as ¶ 30, then the first
8 new allegedly undisputed fact specified by the opposing party shall be set forth as ¶
9 31).

10 The moving party, in its reply, shall respond to the additional allegedly
11 undisputed facts in the same manner and format that the opposing party is required to
12 adhere to in responding to the moving party's Statement of Uncontroverted Facts, as
13 described above.

14 3. *Supporting Evidence*

15 No party shall submit any evidence other than the specific items of evidence or
16 testimony necessary to support or controvert an allegedly undisputed fact. Thus, for
17 example, the entire transcript of a deposition, entire sets of interrogatory responses,
18 and documents that do not specifically support or controvert material in the separate
19 statements should not be submitted in support of or in opposition to a summary
20 judgment motion. The Court will not consider such material.

21 Evidence submitted in support of or in opposition to a summary judgment
22 motion should be submitted either by way of stipulation or as exhibits to declarations
23 sufficient to authenticate the proffered evidence, and should not be attached to the
24 party's Memorandum of Points and Authorities. The Court will accept counsel's
25 authentication of deposition transcripts, of written discovery responses, and of the
26 receipt of documents in discovery if the fact that the document was in the opponent's
27 possession is of independent significance. Documentary evidence as to which there
28 is no stipulation regarding foundation must be accompanied by the testimony, either

1 by declaration or properly authenticated deposition transcript, of a witness who can
2 establish authenticity. The parties should use colored markers to highlight the
3 testimony of portions of exhibits on which they are relying.²

4 *4. Objections to Evidence*

5 If a party disputes a fact based in whole or in part on an evidentiary objection,
6 the ground of the objection should be stated in that party's separate statement but not
7 argued in that document. Evidentiary objections should be addressed in a separate
8 memorandum to be filed with the opposition or reply brief of the party. The
9 memorandum should be organized to track the paragraph numbers of the other party's
10 separate statement in sequence. It should identify the specific item of evidence to
11 which objection is made, the ground of the objection, and a very brief argument with
12 citation to authority as to why the objection is well taken.³

13 For example:

14 Statement of Uncontroverted Facts, ¶ 3: Objection to the supporting deposition
15 transcript of Jane Smith at 60:1-10 on the ground that the statement constitutes
16 inadmissible hearsay and no exception is applicable. To the extent that the
17 statement is offered to prove her state of mind, it is irrelevant since her state of
18 mind is not in issue. Fed. R. Evid. 801, 802.

19 *5. The Memorandum of Points and Authorities*

20 The moving party's Memorandum of Points and Authorities should be in the
21 usual form required under Local Rule 7 and should contain a narrative statement of
22

23 ² When a party relies on deposition testimony in a summary judgment
24 motion without citing to page and line numbers, the Court in its discretion may
25 exclude or disregard the supposed "evidence." See Orr v. Bank of America, 275 F.3d
26 764, 775 (9th Cir. 2002).

27 ³ **Blanket or boilerplate objections will be disregarded and summarily**
28 **overruled.**

1 facts as to those aspects of the case that are before the Court. All facts should be
2 supported with citations to the paragraph number in the moving party's Statement of
3 Uncontroverted Facts that supports the factual assertion and not to the underlying
4 evidence.

5 Unless the case involves some unusual twist on Fed. R. Civ. P. 56, the motion
6 need only contain a brief statement of the Rule 56 standard; the Court is familiar with
7 the interpretation of Rule 56 under Celotex and its progeny. If at all possible, the
8 argument should be organized to focus on the pertinent elements of the cause(s) of
9 action or defense(s) in issue, with the purpose of showing the existence or non-
10 existence of a genuine issue of material fact for trial on that element of the claim or
11 defense.

12 Likewise, the opposing party's Memorandum of Points and Authorities should
13 be in the usual form required by Local Rule 7, and where the opposition memorandum
14 sets forth facts, the memorandum should cite to paragraphs in the moving party's
15 Statement of Uncontroverted Facts if the facts are not in dispute, to the evidence that
16 contravenes the fact where the fact is in dispute, or if the fact is contravened by an
17 additional fact in the opposing party's Statement of Genuine Issues, the citation
18 should be to such fact by paragraph number.

19 20 C. Motions in Limine

21 Parties often do not focus on evidentiary and related issues until the last stages
22 of trial preparation. This is a mistake. In limine motions can be very helpful in
23 narrowing issues, limiting or allowing evidence and promoting settlement. With these
24 benefits in mind, the Court encourages the parties to consider carefully filing such
25 motions before the last stages of trial preparation. In any event, the parties shall file
26 and serve in limine motions in accordance with Local Rule 7 by the date specified in
27 Exhibit A hereto. The Court will make every effort to rule upon in limine motions at
28 or before the Final Pretrial Conference.

1 D. Oral Argument

2 Sometimes the Court will not hear oral argument. When that is the case, the
3 Court will notify the parties in advance. If there is a hearing, tentative rulings will
4 often be available in the courtroom approximately fifteen (15) minutes before the call
5 of the calendar. The Court expects the parties to be familiar with the tentative ruling
6 at the time of argument.

7
8 V. Applications and Stipulations for Extensions of Time

9 A. Applications or Stipulations to Extend the Time to File Any Required
10 Document or to Continue Any Pretrial or Trial Date

11 No stipulations extending scheduling requirements or modifying applicable
12 rules shall be effective unless and until the Court approves them. Both applications
13 and stipulations must set forth:

- 14 1. The existing due date or hearing date.
- 15 2. Specific, concrete reasons supporting good cause for
16 granting the extension. In this regard, a statement to the effect that an
17 extension “will promote settlement” will be insufficient. The requesting
18 party or parties must indicate the status of ongoing negotiations (e.g.,
19 whether written proposals have been exchanged, whether counsel is in
20 the process of reviewing a draft settlement agreement, whether a private
21 mediator has been selected).
- 22 3. Whether there have been any prior requests for extensions,
23 and whether these were granted or denied by the Court.

24
25 B. Ex Parte Applications

26 The Court strongly discourages ex parte applications. See Mission Power
27 Engineering Co. v. Continental Cas. Co., 883 F. Supp. 488 (C.D. Cal. 1995). **The**
28 **Court expects strict compliance with Local Rule 7-19.**

1 **VI. Final Pretrial Conference; Scheduling; Management**

2 A. Meeting of Counsel Before Final Pretrial Conference

3 The Court expects strict compliance with Local Rules 16-2 and 16-3.

5 B. Memorandum of Contentions of Fact and Law

6 Each party's Memorandum of Contentions of Fact and Law should conform
7 with Local Rule 16-4.

9 C. Witness List

10 The Court expects strict compliance with Local Rule 16-5. In addition, the
11 witness lists must include a brief (one or two paragraph) description of each witness'
12 anticipated testimony, and a time estimate for both direct and cross-examination
13 (separately stated).

14 The obligation of listing such witnesses is a continuing one, and except for
15 good cause shown, the testimony of any such witness proffered at trial who is not
16 listed upon a party's witness list shall be precluded.

18 D. Exhibits

19 The Court expects strict compliance with Local Rule 16-6.

20 In addition to the Joint Exhibit List contemplated by Local Rule 16-6.1, the
21 parties shall prepare and file a Pretrial Exhibit Stipulation which shall contain each
22 party's numbered list of all trial exhibits, with objections (if any) to each exhibit
23 including the basis of the objection and the offering party's response. All exhibits to
24 which there is no objection shall be deemed admitted. All parties shall stipulate to the
25 authenticity of exhibits whenever possible, and the Pretrial Exhibit Stipulation shall
26 identify any exhibits whose authenticity has not been stipulated to and the specific
27 reasons for the party's failure to stipulate (as well as the offering party's response).

28 The Stipulation shall be substantially in the following form:

1 Plaintiff's Exhibits

2 No. of Exhibit Description If objection, state grounds Response to objection

4 Defendant's Exhibits

5 No. of Exhibit Description If objection, state grounds Response to objection

7 The Pretrial Exhibit Stipulation shall be filed at the same time counsel lodge the
8 Final Pretrial Conference Order. Failure to comply with this paragraph shall
9 constitute a waiver of all objections to the other party's exhibits.

11 E. Final Pretrial Conference Order

12 Plaintiff shall lodge the Final Pretrial Conference Order on the date specified
13 in Exhibit A hereto.

14 In accordance with Local Rule 16-7.2, the Final Pretrial Conference Order shall
15 be substantially in the form shown in Pretrial Form No. 1 set forth in Appendix A to
16 the Local Rules. In drafting Section 5 of the Final Pretrial Conference Order, the
17 Court expects the parties to attempt to agree on and set forth as many non-contested
18 facts as possible.⁴

20 F. Final Pretrial Conference

21 The Final Pretrial Conference will be held at 10:00 a.m. on the date specified
22 in Exhibit A hereto, unless the Court expressly waives a Final Pretrial Conference at
23 the Scheduling Conference. If the Court does waive a Final Pretrial Conference, the
24 Court will expect strict compliance with Local Rule 16-11.

26 ⁴ The Court will usually read the uncontested facts to the jury at the start
27 of a jury trial. A carefully drafted and comprehensively stated stipulation of facts will
28 reduce the length of trial and increase jury understanding of the case.

1 The lead trial attorney on behalf of every party shall attend both the Final
2 Pretrial Conference and all meetings of counsel in preparation for the Final Pretrial
3 Conference. Unless counsel has been excused for good cause shown in advance of
4 the Final Pretrial Conference, the Court reserves the right to designate the attorney
5 attending the Final Pretrial Conference as lead trial counsel.

6 Counsel should presume that a continuance of the Final Pretrial Conference at
7 the parties' request or by stipulation is unlikely. Specifically, failure to complete
8 discovery does not constitute good cause for a continuance. In the unlikely event that
9 the Court agrees to a continuance of the Final Pretrial Conference, the trial date is
10 likely to be delayed as a result, possibly for several months.

11 At the Final Pretrial Conference, the parties should be prepared to discuss
12 means of streamlining the trial, including, but not limited to: bifurcation; presentation
13 of foundational and non-critical testimony and direct testimony by deposition
14 excerpts, narrative summaries and/or stipulations as to the content of the testimony;
15 presentation of testimony on direct examination by declaration subject to cross-
16 examination; and qualification of experts by admitted resumes. The Court will
17 attempt to rule upon previously-filed in limine motions at the Final Pretrial
18 Conference. The Court also will discuss settlement at the Final Pretrial Conference.

19 For jury trials, the Court also will set a date at the Final Pretrial Conference,
20 generally several days before the trial date, for a final status conference. The purpose
21 of the final status conference will be to rule on any remaining motions in limine,
22 discuss voir dire and jury selection procedures with counsel, resolve anticipated
23 evidentiary and foundational issues to the extent possible, and address any other issues
24 that may impact the efficient trial of the case.

25 //

26 //

27 **G. Consequences of Noncompliance. If counsel fail to file the required**
28 **pretrial documents or fail to appear at the Final Pretrial Conference and such**

1 failure is not otherwise satisfactorily explained to the Court, (a) the case shall be
2 dismissed for failure to prosecute if such failure occurs on the part of the
3 plaintiff, (b) default judgment shall be entered if such failure occurs on the part
4 of the defendant, and/or (c) the Court may take such action as it deems
5 appropriate (including the imposition of monetary sanctions against counsel).
6

7 **VII. Settlement**

8 The Court believes that, in most cases, the completion of all or substantially all
9 discovery and the determination of dispositive motions will help the parties assess
10 their positions before they embark on the costly pretrial process. However, the Court
11 recognizes that parties sometimes find it more difficult to settle after they have
12 incurred the cost of all discovery and motion practice. The Court therefore strongly
13 encourages counsel and the parties to pursue settlement earlier, and if the parties
14 believe that a settlement more likely would be reached if their mandatory settlement
15 conference were held earlier than the last day specified in Exhibit A hereto, they
16 should arrange to hold it earlier. In any event, as indicated in Exhibit A hereto, the
17 parties must file a Status Report re Settlement concurrently with the filing of the
18 parties' memoranda of contentions of fact and law, witness lists, and exhibit lists.

19 The Court will not conduct settlement conferences itself in its non-jury cases.
20 In its jury cases, the Court will conduct a settlement conference at the parties' joint
21 request if the following three conditions exist:

22 1. The parties are satisfied that the fact issues in the case will
23 be tried to a jury.

24 2. All significant pretrial rulings which the Court must make
25 have already been made.

26 3. The parties desire the Court to conduct the settlement
27 conference, understanding that if a settlement is not reached, the Court
28 will try the case.

1 If the Court conducts a settlement conference, the Court will expect strict
2 compliance with its Order re Settlement Conference (a copy of which can be secured
3 in advance from the Courtroom Deputy Clerk).

4
5 **VIII. Trial Brief**

6 At least seven (7) calendar days before trial is scheduled to commence, each
7 party may serve and file a trial brief in accordance with Local Rule 16-10.

8
9 **IX. Trial Date**

10 This case has been set for trial on the date specified in Exhibit A hereto at 8:30
11 a.m. Please review the Court's separately-issued Civil Trial Order for additional
12 procedures and requirements.

13
14 **X. Conclusion**

15 The Court thanks the parties and their counsel for their anticipated cooperation
16 in carrying out these requirements.

17
18 IT IS SO ORDERED.

19
20 DATED: _____

21
22 _____
23 ROBERT N. BLOCK
24 UNITED STATES MAGISTRATE JUDGE
25
26
27
28

EXHIBIT A

Presumptive Schedule of Pretrial Dates

<u>Matter</u>	<u>Time</u>	<u>Weeks before trial</u>	<u>Pl's request</u>	<u>Def's Request</u>	<u>Court Order</u>
Trial Date (jury)	8:30 am				
Estimated length: ____ days					
For jury trial: date of final status conference	10:00 am				
Last day to file Trial Brief		-1			
Date of Final Pretrial Conference; hearing on <u>in limine</u> motions	10:00 am	-2			
For jury trial: file agreed-upon set of jury instructions, verdict forms and special interros, and Joint Statement re disputed instructions, verdict forms and special interros; file proposed voir dire questions and agreed-upon Statement of Case		-2			
For court trial: lodge proposed Findings of Fact and Conclusions of Law, and Witness Declarations		-2			
Lodge Final Pretrial Conference Order; File Memos of Contentions of Fact and Law, Joint Exhibit List, Pretrial Exhibit Stip, Witness Lists, and Joint Status Report re Settlement		-4			
Last day for hand serving and filing motions <u>in limine</u>		-5			
Last day to hold Mandatory Settlement Conference		-8			
Last day for hearing motions other than <u>in limine</u> and discovery motions	9:30 am	-9			
Last day for hearing discovery motions	9:30 am	-11			
Discovery cut-off date		-15			
Last day to amend pleadings or add parties					